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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,475	03/13/2001	Scott Faber	04704P005	3558

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EXAMINER

LASTRA, DANIEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,475

Applicant(s)

FABER ET AL.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-14, 16-20, 22-29 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-14, 16-20, 22-29 and 31-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/03/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-5, 7-14, 16-20, 22-29 and 31-41 have been examined. Application 09/808,475 (APPARATUS AND METHOD FOR RECRUITING, COMMUNICATING WITH, AND PAYING PARTICIPANTS OF INTERACTIVE ADVERTISING) has a filing date 03/13/2001.

Response to Amendment

2. In response to Non Final Rejection filed 09/27/04, the Applicant amended claims 1, 8, 16, 23, 31, 32, cancel claims 6, 15, 21, 30 and added new claim 41.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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Claims 1-5, 7-14, 16-20, 22-29 and 31-41 are rejected under 35 U.S.C. 102(e) as being anticipated by De Rafael et al (U.S. 6,529,878).

As per claims 1, 16 and 31 De Rafael teaches:

A method comprising:

providing one or more interactive advertising links (see column 2, lines 10-27);

receiving, from one or more users, one or more selections for a selected advertising link from the one or more interactive advertising links (see column 2, lines 55-65);

establishing a *real-time* communications link between the one or more users and an advertiser of the selected advertising link (see column 3, lines 1-27). De Rafael teaches advertisers providing questionnaires in real time after users click on banner ads (see column 6, lines 29-44; column 4, lines 15-29). Therefore, De Rafael teaches real-time communication between users and advertisers that provided the banner link.

compensating the one or more users based on various input provided to the advertiser during interaction there between via the communications link (see column 4, lines 25-30).

As per claims 2, 17 and 33 De Rafael teaches:

The method of claim 1, further comprising:

receiving a request from an advertiser to establish an interactive advertising link (see De Rafael column 4, lines 55-67); and

placing a link for an interactive advertisement among the one or more interactive advertising links (see De Rafael column 4, lines 55-67).

As per claims 3, 18 and 34 De Rafael teaches:

The method of claim 2, further comprising:

generating a record in an advertiser database, the record including advertiser information contained in the request, wherein the advertiser information includes one or more of a compensation price, real-time advertiser availability, specific type of the advertisement, languages spoken by the advertiser and additional compensation incentives (see De Rafael column 7, lines 34-47).

As per claims 4 and 19 De Rafael teaches:

The method of claim 1, wherein the compensating the one or more users further comprises:

billing the advertiser a billing amount for each interaction with the one or more users and transferring the billing amount to the one or more users (see De Rafael column 7, lines 34-46).

As per claims 5 and 20 De Rafael teaches:

The method of claim 4, wherein the billing the advertiser further comprises:

measuring a duration of the interaction between the one or more users and the advertiser and calculating the billing amount for the advertiser based on the duration of the interaction and a time-based price paid by the advertiser (see De Rafael column 5, lines 34-46).

As per claims 7 and 22 De Rafael teaches:

The method of claim 1, wherein each selection from a user includes one or more of a category of advertisers, an advertiser payment price, advertiser type and advertisement (see De Rafael column 6, lines 1-26).

As per claims 8, 23 and 32 De Rafael teaches:

The method of claim 1, wherein

selections from the one or more users, the method further comprises:

receiving a request from a user for connection to an interactive advertisement system via a communications link (see De Rafael column 6, lines 1-30);

establishing a connection between the user and the interactive advertisement system in order to provide the user with an interaction with a chosen advertiser, and providing the user with a list of *multiple* advertisement types available from the interactive advertisement system (see De Rafael column 6, lines 1-28).

As per claims 9, 24 and 37 De Rafael teaches:

The method of claim 1, wherein prior to the receiving the one or more interactive advertising links include one or more interactive seminar links and following selection of a selected interactive seminar by the one or more users, the establishing the communications link further comprises:

establishing a real-time video communications link between the one or more users and an advertiser of the selected interactive seminar (see De Rafael column 1, lines 20-45);

providing additional incentive-based links to the one or more users to provide additional feedback (see De Rafael column 3, lines 1-27); and

enabling the one or more users to purchase one or more items advertised by the interactive seminar (see De Rafael column 7, lines 34-47).

As per claims 10 and 25 De Rafael teaches:

The method of claim 1, wherein following the establishing the communications link, the method further comprises:

providing additional incentive-based links to the one or more users to provide additional feedback (see De Rafael column 7, lines 34-47); and

enabling the user to purchase one or more items advertised by the selected advertising link (see De Rafael column 7, lines 34-47).

As per claims 11 and 26 De Rafael teaches:

The method of claim 1, wherein the compensating the one or more users further comprises:

enabling a user to purchase an advertised product with limited availability, such that the user is compensated by having the ability to purchase the advertised product (see De Rafael column 7, lines 33-47).

As per claims 12 and 27 De Rafael teaches:

The method of claim 11, further comprising:

charging the user a predetermined amount such that the user is compensated by having the ability to purchase the advertised product (see De Rafael column 7, lines 33-47); and

transferring the predetermined amount to the advertiser (see De Rafael column 7, lines 33-47).

As per claims 13, 27, 35 and 38 De Rafael teaches:

The method of claim 11, further comprising:

using a telephone as the communications link between the user and the advertiser of the selected advertising link (see De Rafael column 1, lines 20-35).

As per claims 14 and 29 De Rafael teaches:

The method of claim 1, wherein providing the one or more interactive advertising links further comprises:

receiving, from an advertiser interface, a request to activate an interactive seminar included among the one or more interactive advertising links (see De Rafael column 2, line 56 – column 3, line 27);

activating the seminar, such that one or more users can select and participate in the interactive seminar (see De Rafael column 2, line 56 – column 3, line 27);

receiving, from the advertise interface, a request to de-activate the interactive seminar once the seminar is closed (see De Rafael column 3, lines 1-15); and

de-activating the interactive seminar, such that additional users can no longer participate in the interactive seminar (see De Rafael column 3, lines 1-15).

As per claim 36, De Rafael and Kolls teach:

The system of claim 31, wherein the communications link further comprises:

a wireless communications network interface to connect the user to the advertiser of the selected advertisement (see column 1, lines 20-29; column 2, lines 38-44).

As per claim 39, De Rafael teaches:

The system of claim 31, further comprising:

a banner advertisement link procedure to generate an interactive advertisement link as a web page banner advertisement of an advertiser web site (see De Rafael column 1, lines 20-36).

As per claim 40, De Rafael teaches:

The system of claim 31, further comprising:

a banner advertisement link procedure to generate an interactive advertisement link as a web page banner advertisement of a search engine web site (see De Rafael column 1, lines 20-36; column 6, lines 1-27).

As per claim 41, De Rafael teaches:

The method of claim 1, wherein the one or more interactive advertisement links include one or more interactive polls, such that a user selecting a poll is compensated for providing a response to the poll (see De Rafael column 6, lines 30-35).

Response to Arguments

4. Applicant's arguments filed 12/29/2004 have been fully considered but they are not persuasive. Applicant's argues that De Rafael does not teach real-time communication. The Examiner answers that the definition of real time communication is "The actual time in which a physical process under computer study or control occurs"¹. De Rafael teaches advertisers providing questionnaires in real time after users click on banner ads (see column 6, lines 29-44; column 4, lines 15-29). Therefore, De Rafael

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teaches real-time communication between users and advertisers that provided the banner link.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

The Examiner is scheduled to move to the new Alexandria office in April 2005 (or later). The Alexandria phone number would be 571-272-6720 and RightFax number

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571-273-6720. The examiner's supervisor, Eric W. Stamber, new Alexandria number would be 571-272-6724. The current numbers would be in service until the move.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
March 3, 2005

Yehdega Rella
Primary Examiner
AU 3622